

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

United States of America,

Plaintiff,

v.

9-CV-637-LJV-LGF
DECISION & ORDER

Acquest Wehrle, LLC, *et al.*,

Defendant.

On July 14, 2009, the plaintiff, the United States of America, commenced this action for violations of the Clean Water Act, 22 U.S.C. § 1251 *et seq.* Docket Item 1. Eight years and 142 docket entries later, the Court granted the government's motion to voluntarily dismiss the case. See Docket Item 143. But there was more to come.

On January 2, 2018, the defendant, Acquest Wehrle, LLC ("Acquest"), moved for attorneys' fees and costs under the Equal Access to Justice Act, Docket Item 146; on March 19, 2018, the government responded, Docket Item 151; and on April 18, 2018, Acquest replied, Docket Item 156. On February 21, 2020, this Court referred the motion for attorneys' fees and costs to United States Magistrate Judge Leslie G. Foschio.¹ Docket Item 157. On May 24, 2021, Judge Foschio issued a Report and Recommendation ("R&R") finding that Acquest's motion should be denied. Docket Item 158. The parties did not object to the R&R, and the time to do so now has expired. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

¹ On April 12, 2010, the Honorable John T. Curtin, the district judge who originally presided over this case, first referred the case to Judge Foschio for all proceedings under 28 U.S.C. § 636(b)(1)(A) and (B). Docket Item 23.

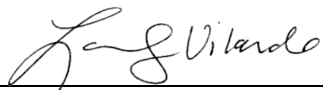
A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). The court must review *de novo* those portions of a magistrate judge's recommendation to which a party objects. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. *See Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge Foschio's R&R as well as the parties' submissions to him. Based on that review and the absence of any objections, the Court accepts and adopts Judge Foschio's recommendation to deny Acquest's motion.

For the reasons stated above and in the R&R, Acquest's motion for attorneys' fees and costs, Docket Item 146, is DENIED. The Clerk of the Court shall close this case.

SO ORDERED.

Dated: July 8, 2021
Buffalo, New York



LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE